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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 889.

ZIM ISRAEL NAVIGATION CO., LTD.,
as Owner of Steamship *ISRAEL*,
Petitioner,

v.

UNITED STATES LINES COMPANY.
Respondent,

and

Steamship *AMERICAN PRESS*.
[and Cross-Suit.]

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

REPLY BRIEF IN BEHALF OF PETITIONER.

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of Counsel.

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No. 889.

ZIM ISRAEL NAVIGATION CO., LTD., as owner of Steamship *Israel*,

Petitioner,

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UNITED STATES LINES COMPANY,

Respondent.

and

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[And Cross-Suit]

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

REPLY BRIEF IN BEHALF OF PETITIONER.

This brief is filed to rectify erroneous statements and to expose unsound arguments contained in respondent's opposing brief.

(1) Respondent seeks to dispel the public importance of the law question presented by the petition by resort to unsupported assumptions.

It thus contends (P. 8) that Pilot Rule 7 (33 C. F. R. §80.7 (a) and (b)), significantly here involved and approved by this Court, *may* not have future importance *if* Congress

legislates new U. S. Coast Guard proposals for amendment of the Statutory Inland Rules "entailing probable elimination" of the Pilot Rules. It cannot be said when and if Congress will act and whether or not the Coast Guard intends to propose any changes in the Pilot Rules.

(2) Respondent unsupportably argues against the jurisdiction of this Court to grant the petition. Petitioner filed its petition herein sixty-six days after its petition to the Court of Appeals for rehearing was denied. Respondent presumes to say that petitioner's rehearing petition which the Court of Appeals accorded timeliness should be regarded as untimely.

(3) Respondent wrongly seeks to infer that this matter involves complex details of collision facts. Respondent's Brief, pp. 4-7. Both lower Courts resolved the material facts in their ultimate concept. The important law issue alone, of which petitioner seeks review, remains.

One example (of irrelevant fact) which we challenge is respondent's unlicensed claim that the petition contains the "grave mis-statement" (Respondent's Brief, p. 4) that the Trial Court did not rule that the AMERICAN PRESS was deficient in lookout.

The undisturbed ruling in the Trial Court is that: "The Court finds that each vessel gave the one-blast signal as testified to by its pilot; also, that these were not heard by the other vessel, although it is difficult to understand that failure since conditions for their reception were favorable and the whistles on the respective vessels were in good order and functioning."
(ZIM ISRAEL Appendix, pp. 23a-24a). Deficiency in hearing, as well as in seeing, spells deficient lookout.

Respondent's Brief presents no valid grounds of opposition and it is submitted that the petition herein should be granted.

Dated: March 8, 1965.

Respectfully submitted,

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